



04-02-02

#6 3DAC

**PATENTS**  
Attorney Docket No. 18136-1050

EXPRESS MAIL LABEL - 37 CFR 1.10

Express Mail Label No. EL 940 751 501 US; mailed March 28, 2002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Zhang et al. : Customer Number: 25213  
App. No.: 09/728,309 : Art Unit: 1646  
Filed: November 30, 2000 : Examiner: Brannock, Michael T.  
For: **Human VNO Receptor (R1)**

**Box DAC**  
Commissioner for Patents  
Washington, DC 20231

**RECEIVED**  
APR 03 2002  
OFFICE OF PETITIONS

Sir:

**PETITION FOR REVIVAL OF AN APPLICATION  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

The above-identified application became *de facto* abandoned for failure to timely file a Request To Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii). The date of abandonment is the day 45 days after the filing of an international or foreign application. A PCT application was filed on November 30, 2001, making the date of abandonment of the above-identified application January 15, 2002.

APPLICANTS HEREBY PETITION FOR REVIVAL OF THIS APPLICATION.

**1. Petition Fee**

The petition fee of \$640.00 is enclosed by check. Pherin Pharmaceuticals, Inc. is a small entity.

04/02/2002 MGBREM1 00000110 09728309

01 FC:241

640.00 OP

**2. Reply and/or Fee**

The Request To Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) is enclosed herewith.

**3. Terminal Disclaimer**

As the application has a U.S. filing date after June 8, 1995, no terminal disclaimer is required.

**4. Statement**

The entire delay in filing the required Request To Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) was unintentional. A detailed statement follows:

The application file was recently reviewed as a result of preparing a response to a Restriction Requirement mailed March 5, 2002. As a result of that review, the undersigned agent noted that a Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) for nonpublication of the application was filed on November 30, 2000 upon filing of the U.S. application. The filing receipt mailed on May 22, 2001 indicates that a Nonpublication Request was filed. Due to an oversight, the filing of the Nonpublication Request was never recorded and docketed. As a result, a reminder to file the Request To Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) within 45 days of the filing of an international or foreign application was never docketed. While an attorney of record noted the filing of the Nonpublication Request in the file, this notification was overlooked when foreign filing instructions were given. This Petition for Revival and associated papers follow.

No Notice of Abandonment has been received by the undersigned agent.

Pherin Pharmaceuticals, Inc. respectfully submits that there has never been an intention by Pherin or their representatives to abandon the application or delay its issuance. Pherin respectfully submits also that the entire delay was unintentional.

**5. Enclosures**

A. Fee payment (\$640.00) by check.

The Office is authorized to charge any deficiency in the fee, or to refund any overpayment, to Deposit Account No. 08-1641 (Heller Ehrman White & McAuliffe LLP), referring to 18136-1050. A duplicate copy of this Petition is enclosed.

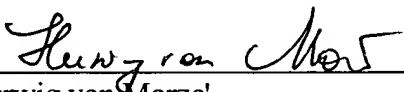
B. Request To Rescind Previous Nonpublication Request under 35 U.S.C.  
122(b)(2)(B)(ii).

**6. Conclusion**

Entry of the Request To Rescind Previous Nonpublication Request under 35 U.S.C.  
122(b)(2)(B)(ii) and grant of the petition for revival is respectfully requested.

Respectfully submitted,

Date: March 28, 2002

  
\_\_\_\_\_  
Herwig von Morze'  
Agent for Applicants  
Reg. No. 29,484

Heller Ehrman White & McAuliffe LLP  
275 Middlefield Road  
Menlo Park CA 94025-3506  
Direct: (650) 324-7176

**RECEIVED**  
APR 03 2002  
OFFICE OF PETITIONS